

ARTICLE 19

Personnel Files

Section 1. General.

There shall be only one official personnel file maintained for an employee. For purposes of record keeping, copies of information contained in the official personnel file may be kept at the employee's work location.

Upon an employee's relocation to another work location, only the employee's official personnel file may be transferred to the employee's new work location. In accordance with Section 2 below, upon the employee's request, such file may be reviewed by the employee prior to the transfer of the file. Material pertaining to an employee's conduct, performance, and/or of a disciplinary nature shall be identical in both the local and official files. Under no circumstances shall an employee's medical file be contained in the employee's personnel file; however, records of personnel actions based upon medical information may be kept in the personnel file. Grievance forms and decisions shall not be contained in an employee's personnel file. All material placed in a personnel file shall either be signed by the employee indicating receipt of a copy of same or routinely supplied to the employee, except material related to routine non-disciplinary personnel transactions.

For purposes of this Article, notes kept by a supervisor shall not be considered a personnel file. Such notes shall be kept in a confidential manner and shall be considered the property of the maker of such notes, and shall be placed in the employee's personnel file only if the employee is provided a copy and shall not be used for purposes of discipline unless placed in the employee's official personnel file.

If an employee disagrees with anything contained in his/her personnel file, the employee may seek removal or correction of same. If no agreement is made to remove or correct the information, the employee may submit a written statement explaining his/her position, and it shall be entered into the file and/or the Employee may file a grievance regarding the removal or correction of the information.

Section 2. Access.

Access to and usage of individual personnel files shall normally be during non-working hours, including lunch and break periods, and in accordance with applicable law and shall be restricted to authorized management personnel, the employee and/or the Union representative when authorized in writing by the employee. An employee shall have the right, upon request, to review his/her personnel file at reasonable intervals and may be accompanied by Union representative(s) if he/she so desires. Upon request, the Employer shall make a

copy of documents in a personnel file and furnish such copies to the employee. The employee shall bear the cost of such duplication.

Pre-employment information or information provided the State with the specific request that it remain confidential, shall not be subject to inspection or copying.

Section 3. Employee Notification.

A copy of any disciplinary action or material related to employee performance which is placed in the personnel file shall be provided to the employee (the employee so noting receipt, or the supervisor noting failure of the employee to acknowledge receipt) or sent by certified mail (return receipt requested) to the employee's last address appearing on the Employer's records.

Section 4. Non-Job Related Information.

Detrimental information not related to the employment relationship shall not be placed in an employee's personnel file.

Section 5. Time Limits.

Upon an employee's written request, records of disciplinary actions/interim service ratings shall be removed from an employee's official personnel file and any other personnel files kept at work locations of the Employer twenty four (24) months following the date on which the action was taken or the rating issued, provided that no new disciplinary action/interim service rating has occurred during such twenty-four (24) month period. Written reprimands/counseling memoranda shall similarly be removed twelve (12) months following the date of issuance provided no new written reprimand/counseling memoranda has been issued during such twelve (12) month period. These provisions shall not prohibit the Employer from maintaining records of disciplinary action arising out of violations of prohibited practices as defined in the Civil Service Rules and Regulations. The provisions of this Section shall apply retroactively. Any record eligible to be expunged under this Section shall not be used in any subsequent hearing concerning the employee

Records removed under this Section will be sealed and will only be opened in the event that such records are needed to provide a defense for the Employer's actions in Civil Rights litigation. These sealed records will not be used for the purpose of initiating discipline against an employee.

Section 6. Confidentiality of Records.

A. General: This Article shall not be construed to expand or diminish a right of access to records as provided by the Freedom of Information Act, being Act 442 of Public Acts of 1976, nor as provided by the Bullard Plawecki Employee Right to Know Act, being Act 397 of Public Acts of 1978. Access to medical and patient information shall be in compliance with the Health Insurance Portability and Accountability Act (HIPAA) and also the Genetic Information Nondiscrimination Act of 2008 (GINA).

- B. Medical Records: To insure strict confidentiality, medical records and reports made or obtained by the Employer shall not be contained in or released in conjunction with the employee's personnel file. Only authorized Employer Representatives, the employee, and a Union Representative authorized by the employee in writing, shall possess or have access to such records.

This provision shall not prevent the Employer from placing information in the employee's medical file which reflects Employer-initiated correspondence with a medical practitioner, or the employee, regarding diagnosis, prognosis, and fitness for employment, or absences from work associated therewith, nor from placing copies of records and reports containing conclusions by the Employer or the practitioner concerning the employee's fitness for duty, based upon proper medical reports and records, in such file. This file may be reviewed by the employee and/or Union Representative in the same manner as the personnel file.

Nothing in this section prohibits the Employer from furnishing or otherwise releasing medical reports or records made or obtained by the Employer, where the employee whose records are in question has him/herself, or his/her agent, filed a grievance under the contract, a complaint/claim with a governmental agency, or a legal action in court and the content of such records is pertinent to the grievance, complaint or legal action. Under such circumstances the employee will be deemed to have waived the right to maintain the confidentiality of his/her own records. A similar waiver will be deemed to have occurred in the circumstance where an employee appears as a witness in behalf of another employee or his/her agent. The medical records in the Employer's possession pertaining to such witness if pertinent to the proceedings will be subject to disclosure. When medical records have been lawfully subpoenaed the Employer will comply with such subpoena.